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April 7, 2021

ENGROSSED HOUSE
BILL NO. 1880

By: West (Tammy) and Virgin of
the House

and

Jech of the Senate

An Act relating to criminal procedure; amending 22 O.S. 2011, Section 305.2, which relates to deferred prosecution programs; authorizing district attorneys to create restorative justice programs for certain nonviolent offenders; authorizing the District Attorneys Council to develop and administer a restorative justice pilot program; stating purpose of pilot program; defining term; stating when pilot program shall conclude; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 2011, Section 305.2, is amended to read as follows:

Section 305.2. A. If an accused qualifies for the deferred prosecution program, the accused and the State of Oklahoma, through the district attorney, may execute an agreement whereby the accused agrees to waive any rights to a speedy accusation, a speedy trial, and any statute of limitations, and agrees to fulfill such

1 conditions to which the accused and the State of Oklahoma may agree
2 including, but not limited to, restitution and community services.

3 B. The accused, as consideration for entering into a deferred
4 prosecution agreement, consents and agrees to a full and complete
5 photographic record of property which was to be used as evidence.
6 The photographic record shall be competent evidence of the property
7 and admissible in any criminal action or proceeding as the best
8 evidence.

9 C. Property shall be returned to its owner only after the
10 photographic record is made subject to the following conditions:

11 1. Property, except that which is prohibited by law, shall be
12 returned to its owner after proper verification of title;

13 2. The return of property to the owner shall be without
14 prejudice to the state or to any person who may have a claim against
15 the property; and

16 3. When property is returned, the recipient shall sign, under
17 penalty of perjury, a declaration of ownership which shall be
18 retained by the police department or sheriff's office.

19 D. As additional consideration for the agreement, the State of
20 Oklahoma shall agree not to file an information if the accused
21 satisfactorily completes the conditions of the agreement.

22 E. The agreement between the accused and the State of Oklahoma
23 may include provisions whereby the accused agrees to be supervised
24 in the community. If the accused is required to be supervised

1 pursuant to the terms of the agreement, the person shall be required
2 to pay a supervision fee to be established by the supervisory
3 agency. The supervision fee shall be paid to the supervisory agency
4 as required by the rules of the supervisory agency. The supervisory
5 agency shall monitor the person for compliance with the conditions
6 of the agreement. The supervisory agency shall report to the
7 district attorney on the progress of the accused, and shall report
8 immediately if the accused fails to report or participate as
9 required by the agreement.

10 F. The agreement between the parties may require the accused to
11 participate or consult with local service providers, including the
12 Department of Human Services, the Department of Mental Health and
13 Substance Abuse Services, the Employment Security Commission,
14 federal services agencies, other state or local agencies, colleges,
15 universities, technology center schools, and private or charitable
16 service organizations. When the accused is required to participate
17 or consult with any service provider, a program fee may be required
18 unless the fee would impose an unnecessary hardship on the person.
19 The program fee shall be established by the service provider based
20 upon a sliding scale. Any state agency called upon for assistance
21 in a deferred prosecution program by any district attorney shall
22 render services and assistance as available. Any supervision fee or
23 program fee authorized by this section may be waived in whole or in
24 part when the accused is indigent. No person who is otherwise

1 qualified for a deferred prosecution program shall be denied
2 services or supervision based solely on the person's inability to
3 pay a fee or fees.

4 G. The agreement between the parties may require the accused to
5 pay a victim compensation assessment pursuant to the provisions of
6 Section 142.18 of Title 21 of the Oklahoma Statutes. The amount of
7 the assessment shall be agreed to by the parties and shall be within
8 the amounts specified in Section 142.18 of Title 21 of the Oklahoma
9 Statutes for the offense charged.

10 H. Any deferred prosecution agreement including, but not
11 limited to, any fee, sliding scale fee, compensation, contract,
12 assessment, or other financial agreement charged or waived by the
13 accused or the State of Oklahoma shall be a record open to the
14 public.

15 I. 1. On or after the effective date of this act, each office
16 of the district attorney shall, upon request and within a reasonable
17 time, provide the name and other identifying information of an
18 accused entering into a deferred prosecution agreement.

19 2. A deferred prosecution agreement entered into prior to the
20 effective date of this act shall not be a record open to the public,
21 unless confidentiality was waived as a condition of the agreement.

22 J. District attorneys shall be authorized to create restorative
23 justice programs for nonviolent offenders who qualify for a deferred
24 prosecution agreement pursuant to the provisions contained in

1 Sections 305.1 through 305.6 of this title and Section 2 of this
2 act.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 305.7 of Title 22, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Beginning November 1, 2021, the District Attorneys Council
7 is hereby authorized to develop and administer a five-year
8 restorative justice pilot program that shall utilize citizen-led
9 mediation panels. The purpose of the program shall be to divert
10 offenders from the traditional prosecution model through use of a
11 deferred prosecution agreement, while utilizing evidence-based
12 practices and techniques to create a community-based restorative
13 justice program that focus on the rehabilitation of offenders
14 through reconciliation with victims and the community at large.

15 B. For purposes of this section, the term "restorative justice
16 program" is defined as an alternative means to the traditional
17 criminal justice model for qualifying nonviolent offenses. The
18 restorative justice program under the provisions of this section
19 should seek to have offenders take responsibility for their actions,
20 understand the harms they have committed and provide an opportunity
21 for offenders to make amends with the victims, themselves and their
22 communities.

23 C. The pilot program shall expire at the conclusion of five (5)
24 years from the effective date of this act.

SECTION 3. This act shall become effective November 1, 2021.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
April 7, 2021 - DO PASS